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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

IGLESIA NI CRISTO,
Plaintiff,
v.
LUISITO E CAYABYAB, et al.,
Defendants.

Case No. 18-cv-00561-BLF

**ORDER GRANTING IN PART AND
DENYING IN PART PLAINTIFF'S
ADMINISTRATIVE MOTION FOR
LEAVE TO FILE A SUR-REPLY**

[Re: ECF 130]

Briefing on Defendants' motion for summary judgment was completed on February 10, 2020, when Defendants filed their reply brief. The motion is set for hearing on February 27, 2020.

On February 13, 2020, Plaintiff filed an administrative motion for leave to file a sur-reply. Plaintiff asserts that a sur-reply is warranted because the Declaration of Restituto S. Lazaro was inadvertently omitted from Plaintiff's opposition, and Plaintiffs wish to respond to Defendants' "evidentiary objections" and "misstatements of fact." *See* Admin. Motion at 2, ECF 130. Plaintiff attaches a proposed sur-reply brief that is ten pages in length. *See* Admin Motion Exh. A.

On February 14, 2020, Defendants filed a "limited opposition" to Plaintiff's administrative motion. Defendants state that they do not oppose Plaintiff's request to belatedly file the Declaration of Restituto S. Lazaro, as that declaration was omitted from Plaintiff's opposition due to inadvertence. However, Defendants argue that Plaintiff has not provided a legitimate basis for seeking leave to present additional written argument to the Court. Defendants point out that ordinarily, material may be filed after the reply in only two circumstances. *See* Civ. L.R. 7-3(d). First, when new evidence is submitted in the reply, the opposing party may file an objection to reply evidence, not to exceed five pages of text. *See id.* Second, counsel may bring to the Court's

1 attention a relevant judicial opinion published after the reply was filed. *See id.* Plaintiff's request
2 for leave to file a sur-reply does not fall into either of these categories.

3 Plaintiff's administrative is GRANTED with respect to Plaintiff's request to file the
4 inadvertently omitted Declaration of Restituto S. Lazaro and otherwise is DENIED. This Court's
5 Civil Local Rules do not contemplate the filing of a sur-reply simply for the purpose of responding
6 to reply arguments. Plaintiff has not shown an adequate basis for deviation from the normal
7 briefing practice that gives the moving party the last word.

8 This order terminates ECF 130.

9 **IT IS SO ORDERED.**

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11 Dated: February 19, 2020


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13 BETH LABSON FREEMAN
14 United States District Judge
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